

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA :  
 :  
 v. : Hon. Dennis M. Cavanaugh  
 : Criminal No. 09-215 (DMC)  
 : CIVIL No. 2:12-cv-6181 (DMC)  
 CORTNIE SPENCER :  
 :

O R D E R

This matter having been opened to the Court on the application of the United States, by Paul J. Fishman, United States Attorney for the District of New Jersey (Eric W. Moran, Assistant United States Attorney, appearing); and the defendant, Cortnie Spencer, through his counsel, Jerome Ballarotto, Esq. and Sally A. Frick, Esq., having moved pursuant to 28 U.S.C. § 2255 to withdraw his guilty plea (the "Motion") [Docket Entry No. 170] based on alleged ineffective assistance of prior counsel that occurred between the time of his arrest and his sentencing; and the defendant having been arrested on September 26, 2008 and having been sentenced on September 7, 2011; and the defendant having been represented during that time by John H. Yauch, Esq., Pasquale F. Giannetta, Esq. and Barry S. Turner, Esq. ("Prior Counsel"); and for good cause shown,

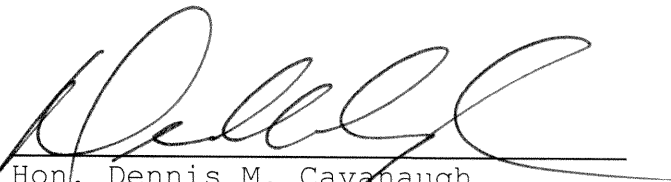
IT IS THE FINDING OF THIS COURT that by alleging in the Motion that the defendant received ineffective assistance of counsel, the defendant knowingly and voluntarily waived the attorney-client privilege with regard to communications concerning his claim of ineffective assistance of counsel.

IT IS THEREFORE ORDERED on this 12 day of October, 2012, that:

1. The Government may interview Prior Counsel at a mutually convenient time and place, regarding the claims of ineffective assistance of counsel raised in the Motion and that counsel shall disclose to the Government information relevant to the ineffective assistance of counsel claim;

2. Prior Counsel each shall provide an affidavit to the Court pertaining to any consultation with Cortnie Spencer and any action taken with regard to the issues raised by Cortnie Spencer in the Motion; and

3. Prior Counsel shall give testimony including testimony concerning the claims of ineffective assistance of counsel raised in the Motion, if the Court orders a Hearing on the Motion.



Hon. Dennis M. Cavanaugh  
United States District Judge